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EXAMINER
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ROSS, DANA

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JOHN T. KNEPLER, KURT POWELL, DEAN MULLER,  
TIMOTHY P. KAEDING, and ROBERT J. KOBYLARZ

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Appeal 2015-003374  
Application 11/105,676<sup>1</sup>  
Technology Center 3700

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Before JAMES P. CALVE, LEE L. STEPINA, and  
FREDERICK C. LANEY, *Administrative Patent Judges*.

LANEY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

John T. Knepler et al. (Appellants) appeal under 35 U.S.C. § 134(a) from the Examiner's final decision rejecting claims 9–28.<sup>2</sup> We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> According to Appellants, the real party in interest is Bunn-O-Matic Corporation. Appeal Br. 1 (filed July 22, 2014).

<sup>2</sup> Claim 1–8 have been withdrawn. Final Act. (Office Action Summary).

## INVENTION

Appellants' invention "relates to a method of checking, analyzing or otherwise verifying the operation of food or beverage apparatus after manufacture and before it is shipped to a distributor, customer, end user, or the like." Spec. ¶ 2.

Claims 9, 17, and 21 are independent claims. Claim 9, reproduced below, is illustrative of the claimed invention:

9. A method of testing at least one component of a beverage maker, the method comprising the steps of:

providing a beverage maker having been assembled and prior to shipment from the manufacturing facility, the beverage maker having at least one component that can produce at least one measurable characteristic before shipment from a manufacturing facility;

testing the beverage maker by retrieving at least one signal from the at least one component of the beverage maker corresponding to the at least one measurable characteristic *for providing baseline information associated with the at least one component of the beverage maker prior to shipping from the manufacturing facility;*

assigning one of a pass condition and a fail condition to the at least one component of the beverage maker based on a range of signal values for the at least one component of the beverage maker;

*saving the baseline information relating to a pass condition signal on a device carried directly on the beverage maker, with the baseline information being selectively retrievable directly from the beverage maker;*

*after use of the beverage maker to make beverage, comparing a measured current state of the at least one measurable characteristic of the at least one component of the beverage maker to the baseline information of the same at least one measurable characteristic to determine a deviation between the baseline and the current state used to analyze the condition of the at least one component of the beverage maker;*

using the deviation to at least one of repair, reconfigure and adjust settings of the at least one component of the beverage maker; and then  
using the beverage maker to make beverage.

Appeal Br. 9 (Claims App.) (emphases added).

## REJECTIONS

- I. The Examiner rejected claims 9–28 under 35 U.S.C. § 103(a) as being unpatentable over Bunn (WO 02/23735 A2, pub. Mar. 21, 2002) and Turrin (EP 1,331,486 A1, pub. July 30, 2003).
- II. The Examiner rejected claims 9–13, 15–21, and 23–25 under 35 U.S.C. § 103(a) as being unpatentable over Black (US 2003/0121937 A1, pub. July 3, 2003), Turrin, and Hays (US 6,260,004 B1, iss. July 10, 2001).
- III. The Examiner rejected claims 14, 22, and 26–28 under 35 U.S.C. § 103(a) as being unpatentable over Black, Turrin, Hays, and Bunn.
- IV. The Examiner rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Black, Turrin, Hays, and Lamb (US 3,802,542, iss. Apr. 9, 1974).

## ANALYSIS

### Rejection I

The core of Appellants’ arguments revolve around whether Bunn and Turrin, individually or as a combination, disclose establishing “baseline information” for at least one component of the beverage maker prior to shipment of the beverage maker from the manufacturing facility and

subsequently using that information to evaluate the same component after operation of the beverage maker. Although neither the Appellants nor the Examiner expressly define or interpret the term “baseline information,” the dispute between them rests on its meaning. The Examiner implicitly defines “baseline information” as data “indicative of the operational threshold which the equipment may not cross.” *See* Final Act. 8; Ans. 9. Appellants’ arguments implicitly interpret “baseline information” as a threshold set by a measured value of a component within an assembled beverage maker before the beverage maker has been shipped from the manufacturing facility. *See, e.g.,* Appeal Br. 5–8. The important difference between the meanings, and thus the central issue of this appeal, is that the Examiner’s definition more broadly covers any threshold value set for a component before shipment without the value being measured; whereas, the Appellants’ meaning more narrowly covers only a value actually measured for the component prior to shipment. For the following reasons, the broadest *reasonable* interpretation of “baseline information” is a threshold value set using the results of a measureable characteristic for a component within a beverage maker before the beverage maker is shipped from the manufacturing facility.

Turning to the context of claims 9, 17, and 21, each claim recites measuring and storing at least one measurable characteristic of a component within an assembled beverage maker before the beverage maker is shipped from the manufacturing facility and using this data to establish “baseline information.” Claim 9 recites, “providing a beverage maker having been assembled and . . . having at least one component that can produce at least one measurable characteristic,” “testing the beverage maker by retrieving at least one signal from the at least one component . . . for providing baseline

information associated with the at least one component of the beverage maker prior to shipping from the manufacturing facility,” and “saving the baseline information relating to a pass condition signal on a device carried directly on the beverage maker.” Appeal Br. 35 (Claims App.). Claim 17 recites, “storing on the beverage maker at least one measurable characteristic of the at least one component of a beverage maker measured after having been assembled and before the beverage maker is shipped from a manufacturing facility, the measured characteristic providing baseline information.” *Id.* at 36. Claim 21 recites, “testing the beverage maker before shipment to establish baseline data for the monitorable characteristics for each of the plurality of components for making beverage, whereby the baseline data for the plurality of components comprises the baseline configuration of the beverage maker.” *Id.* at 37. The plain meaning of each independent claim, therefore, expressly requires “baseline information” to be established by using a measured value from a component within an assembled beverage maker before the beverage maker is shipped from the manufacturing facility. The Specification is consistent with the plain meaning of the claims. *See, e.g.,* Spec. ¶¶ 8, 21, 27.

Although the Examiner has demonstrated that both Bunn and Turrin utilize data indicative of the operational threshold to evaluate the operation of an apparatus, the Examiner has not shown, by a preponderance of the evidence, that either reference discloses “baseline information,” as properly construed. Regarding Bunn, the Examiner finds that it fails to disclose “baseline data is provided prior to shipping from the manufacturing facility.” Final Act. 3. Because “baseline information” is a measured component

value made before it was shipped from the manufacturing facility, Bunn fails to teach “baseline information” as we have interpreted that limitation.

Regarding Turrin, the Examiner finds paragraphs 12–14 establish it was known to test a component of an assembled apparatus prior to shipment to obtain a measured value for establishing a threshold value for that component. Final Act. 3–4. Further, the Examiner finds,

Turrin clearly discloses that each apparatus should be tested prior to shipment in order to establish a baseline for that apparatus and that the baseline is then written to the control: “During the testing procedure of the washing machine 10, the PLC 50 (which is preferably placed in a control room for the testing of each washing machine) performs reading and writing operations.”

Ans. 11 (citing Turrin ¶ 12).

Notably, the Examiner does not identify anything specific from Turrin’s paragraphs 12–14 that teaches using a component’s measured value prior to shipment to establish a threshold value that would be subsequently used to evaluate the same component after deployment or use of the beverage maker. From our consideration of these Turrin paragraphs, however, we are persuaded Appellants more appropriately characterize them as teaching an electrical test of the assembled system to evaluate whether the components will perform properly. *See* Appeal Br. 13. In other words, paragraphs 12–14 of Turrin do not teach establishing a threshold value that is set by using the results of a measureable characteristic for a component within an apparatus before it is shipped from the manufacturing facility. Given the proper interpretation of “baseline information” in the context of Appellants’ claims, we are persuaded the Examiner has not made a prima facie case that either Bunn or Turrin teach the creation and/or use of baseline

information. Therefore, we do not sustain the Examiner's rejection of claims 9–28 as unpatentable in view of Bunn and Turrin.

Rejection II

In Rejection II, the Examiner finds Black and Turrin disclose the claimed “baseline information.” Final Act. 4–6. The Examiner finds Black discloses “baseline information,” but fails to disclose a “beverage machine is to store baseline information ‘prior to shipment from the manufacturing facility.’” *Id.* at 5. Because “baseline information” is a measured value from a component in an assembled apparatus before it was shipped from the manufacturing facility, Black cannot teach the claimed “baseline information.” The Examiner again relies on Turrin paragraphs 12–14 to cure this deficiency with Black. *Id.* at 6. For the same reasons discussed above (*see supra* Rejection I), we are persuaded that the Examiner's reliance on Turrin to teach “baseline information” is not supported by a preponderance of the evidence. Therefore, we do not sustain the Examiner's rejection of claims 9–13, 15–21, and 23–25 as unpatentable in view of Black, Turrin, and Hays.

Rejections III and IV

The Examiner adopts the above errors into the rejections of claims 3–5 and 13. *See* Final Act. 6–8. Neither Hays nor Lamb are relied upon to cure the deficiencies discussed above (*see supra*, Rejections I and II) regarding claims 9 and 21. Therefore, we do not sustain the Examiner's rejections of claims 14, 22, and 26–28.

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Application 11/105,676

DECISION

The Examiner's rejections of claims 9–28 are reversed.

REVERSED